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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,858	12/27/2001	Steven Barritz	P/3704-7	1455

2352 7590 12/12/2006

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NEW YORK, NY 100368403

EXAMINER

ABEL JALIL, NEVEEN

ART UNIT	PAPER NUMBER
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2165

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/034,858

Applicant(s)

BARRITZ ET AL.

Examiner

Neveen Abel-Jalil

Art Unit

2165

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 22 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6. ☒ Newly proposed or amended claim(s) 16, 18, 26 and 28 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 16, 18, 26 and 28.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-15, 17, 19-25, 27 and 29-35.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_

13. ☐ Other: \_\_\_\_\_.

  
JEFFREY GOREN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's timely amendment and response is appreciated and although places claims 16, 18, 26 and 28 in allowance form; it still didn't fix outstanding minor objections with regards to claims 8, and 34.

In claim 8, the recitation of "operable in" in line 12 does not suggest functionality or require any steps to be performed; it should be changed to "configured in conjunction with". Similarly, claim 34, still recite "enables" in line 5. Appropriate correction is required.

Although no rejections in view of prior art are made regarding claims 8-13, and 34, these claims will not fully be indicated as allowable until after a response to this action has been reviewed, as to the fact that certain changes may not produce those to be allowable claims.

Applicant's arguments filed on November 22, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that "Suchter does not enable listers and searchers to interactively modify or supplement search terms that are initially assigned to items to be found by the categorization system" is acknowledged not deemed persuasive.

Suchter's invention explicitly teaches in various parts that both the owner (i.e. lister) and the operator (i.e. searcher) have edit access to the categorization system, see column 8, lines 19-34).

In response to applicant's argument that "Suchter does not teach or suggest "categorization system" that associates "search terms" defining categories or attributes with items to be found" is acknowledged but not deemed to be persuasive.

The Examiner would like to point out that this argument is nowhere in the claim language. The claim language as it is interpreted by the Examiner reads as follows: the "categorization system" (i.e. directory or index or database) is accessible and modifiable by both type of users listers and searchers (i.e. owner and operator). And that what's being accessible and modifiable is in fact the "search term" (i.e. url or title or subject or word) originally given to the item (i.e. the document).

It is also noted that this argument was previously addressed in the Final office action mailed on August 23, 2006; and that furthermore, Suchter teaches in various parts search engines which are well known in the art to search using search terms. Applicant's response on page 12 states that Applicant takes exception with Examiner's definition and interpretation of "search terms"; the Examiner maintains the interpretation since there's no claim language to the contrary and there's no support in applicant's disclosure to any given definition other than what can be broadly and reasonably be interpreted by the Examiner, as covered by Suchter. Again, the Examiner emphasizes that should there be a specific definition or novelty to the "search term"; then it should be clearly stated in the claims.

In response to applicant's argument that "Chen does not teach or suggest automatic clustering tool" is acknowledged but not deemed persuasive.

Chen is maintained to teach the argued claim limitations specifically as it was clearly agreed on by applicant's remarks on page 13, that Chen's modalities used in clustering are in essence attributes and categorization data of the items (clusterable attributes of documents) that used in future classification/categorization or reclassification/recategorization of documents. Chen in column 6, lines 60-67, teaches Multi-modal features may take on many forms, such as user information, text genre, or analysis of images. The features used in the present invention can be considered a form of metadata, derived from the data (text and images, for example) and its context, and assigned or semiautomatically rather than current image search systems, in which metadata is typically assigned manually. And in column 34, lines 27-34, Chen teaches hierarchical clustering. The purpose is to automatically generate a hierarchy as it can be found on yahoo (and on many intranets). Hierarchical multi-modal clustering can be used to generate such a hierarchy automatically or to give human categorizers a first cut which they can then hand-edit. Therefore, reading on the argued limitation.

In response to applicant's argument on page 13 that "minimizing the need of the search engine user to successfully refine search terms manually by monitoring particular result items a user has historically chosen to visit" is acknowledged but not deemed to be persuasive. "minimizing the need" is clearly not a functionality but a desired goal or an expectation of the system thus referenced as intended use. The claim should be amended to recite a functionality; for example, "monitoring facility in combination with an automatic clustering facility monitors which particular result-items a user has historically chosen to visit, to minimize said user's need to successively refine search terms manually".